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ISMAEL ARELLANO

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ISMAEL ARELLANO,)	NO. CIV S-92-1630 DFL GGH P
)	
Petitioner,)	
)	
v.)	[PROPOSED] ORDER LIFTING STAY OF
)	JUDGMENT
ROBERT BORG, et al.,)	
)	
Respondents.)	
)	
_____)	

By order filed March 31, 2005, this Court adopted the Findings and Recommendations of the magistrate judge, granted the petition for writ of habeas corpus, and ordered respondent to release petitioner unless the State recommenced criminal proceedings against him within 60 days. On April 29, 2005, respondent filed a notice of appeal. On July 1, 2005, this Court granted respondent's unopposed motion to stay the judgment pending expedited appeal.

On November 3, 2005, the U.S. Court of Appeals for the Ninth Circuit affirmed the judgment. The mandate issued on November 28, 2005. Accordingly, the stay entered on July 1, 2005, is hereby lifted.

Judgment shall be entered for petitioner. Respondent is ordered to release Mr. Arellano from custody unless the State, within 45 days of this Order, initiates retrial proceedings. If such criminal proceedings are commenced, petitioner's custody status shall be determined by State authorities.

IT IS SO ORDERED.

Dated: 12/6/2005

/s/ David F. Levi
HON. DAVID F. LEVI
United States District Judge